

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INCOME TAX APPEAL NO.134 OF 2004

The Commissioner of Income ..Appellant.

V/s.

Hemant Raghunath Powale ..Respondent.

Mr.R.V.Desai, senior counsel with P.S.Jetly for appellant.

None for respondent.

**CORAM : S.RADHAKRISHNAN AND
J.P.DEVADHAR, JJ.**

DATED : 17TH JANUARY, 2005.

P.C. :-

Heard learned counsel for the appellant.
Perused the order of the Income Tax Appellate Tribunal dated 11th July, 2001 wherein the Tribunal observed "At the time return was filed and when the same was considered by the AO, the issue as to whether expenses are allowable as deduction against the incentive bonus was highly debatable". In view of the above position, the adjustment could not have been made under section 143(1)(a) of the Income Tax Act. In the light of the Judgment of our Court in **Khattau Junkar Ltd. & Anr. v/s. K.S. Pathania & Anr.** reported in **196 I.T.R. 55**, we are not inclined to admit the appeal. Hence appeal stands dismissed.

(S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)